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PROP 98-001C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: *Powlette*

Serial No.: 09/845,595

Filed: *4/30/01 as a divisional of serial no. 09/172,191*  
*filed 10/13/98*

For: *System And Method For Annotating & Capturing*  
*Chart Data*

) Art Unit: 2173

) Examiner: unknown

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**Response and Petition to Waive Fee**  
**for Omitted Items in a Nonprovisional Application**

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Commissioner of Patents and Trademarks  
Washington, D.C. 20231

SEP 10 2001

OFFICE OF PETITIONS

Sir:

In response to the enclosed Notice of Omitted Items In a NonProvisional Application,  
Applicant submits the following:

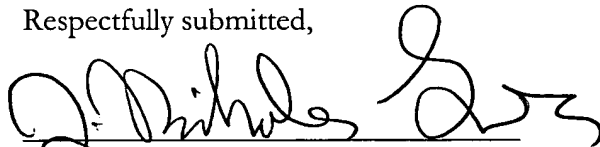
1. The present application is a divisional of and claims benefit to parent application serial no. 09/172,191. The preliminary amendment filed with this case on April 30, 2001, further specifically incorporates by reference the original disclosure.
2. Thus, the present application is entitled to any disclosure filed as of October 13, 1998 with the parent application.
3. On information and belief, the parent application consisted of some 101 pages, including the page indicated by the PTO as missing, namely Page 40. A filing receipt for the parent application, attached hereto as Exhibit A, confirms this fact.
4. The above referenced page 40, as well as the remainder of pages 19 – 87 of the parent application, have been canceled in favor of a microfiche appendix because they

constitute part of a software program listing in excess of 10 pages. This microfiche appendix, consisting of one sheet and 72 frames, was provided in the parent application on April 25, 2001.

5. Page 40 of the present application can be found on the microfiche sheet, at frames 24 – 25.
6. Because Applicant is entitled to rely on the parent application filing materials, as well as the microfiche submission provided in the parent application, both of which are acknowledged received by the PTO, Applicant submits that this satisfies any filing requirements under 37 C.F.R. 1.53(b) for the present application, and that page 40 has thus been “deposited” already with the PTO as of the filing date of the present application, and, indeed, as of the filing date of the parent application.

Please charge any petition fee (37 CFR 1.17(h)) - \$130 to deposit account no. 501-244. As the present petition indicates that the missing page has indeed already been deposited with the PTO, Applicant requests that some consideration be given as well to waiving and/or refunding such fee.

Respectfully submitted,



J. Nicholas Gross,  
Registration No. 34,175  
Attorney for Applicant

July 16, 2001  
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I hereby certify that the foregoing is being deposited with the U.S. Postal Service, postage prepaid, to the Commissioner of Patents and Trademarks, this 16<sup>th</sup> of July 2001.